

ASSEMBLY BILL

No. 53

**Introduced by Assembly Member Portantino
(Coauthors: Assembly Members Arambula and Caballero)**

December 3, 2008

An act to add and repeal Section 18005 of the Government Code, relating to state employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 53, as introduced, Portantino. State employment: salary freeze.

Existing law requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service, subject to specified merit limits. Existing law requires the salary range to be based on the principle that like salaries shall be paid for comparable duties and responsibilities. Existing law allows the state to enter into memoranda of understanding relating to employer-employee relations with employee organizations representing certain state employees.

This bill would make findings and declarations regarding the budget deficit facing the state. The bill would, until January 1, 2012, prohibit a person employed by the state whose base salary on the effective date of the bill is greater than \$150,000 per year from receiving a salary increase while employed in the same position or classification, and from receiving payment for overtime work or a bonus. The bill would exempt from this prohibition a person whose compensation is governed by an operative memorandum of understanding, as described above, a person employed in a classification that is subject to oversight by a federal receiver, a person who has been exempted by executive order of the

Governor, as specified, and a person whose salary is set pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 18005 is added to the Government Code,
2 to read:
3 18005. (a) The Legislature finds and declares all of the
4 following:
5 (1) For several years, the State of California has faced budget
6 deficits requiring cuts and changes in priorities in order to fund
7 state activities.
8 (2) In recent months, the United States economy has been dealt
9 severe blows due to the credit crisis and the housing market crisis,
10 and their resulting effects upon the financial markets.
11 (3) The ongoing structural deficit in state finances, complicated
12 by worsening economic developments, has created a fiscal crisis
13 in the governance of the state.
14 (4) After a nearly three-month deadlock, the Legislature passed
15 the \$103.4 billion Budget Act of 2008 that addressed a \$15.2 billion
16 budget shortfall.
17 (5) As the new fiscal year begins, the state is once again facing
18 a large budget shortfall. In the third quarter of 2008, the state took
19 in \$1.1 billion less than projected. Economic conditions, including
20 declining property values and stock prices and soaring
21 unemployment rates, have generated capital losses rather than
22 capital gains and reduced sales tax, property tax, and income tax
23 revenues. These conditions have been estimated to lead to a \$15
24 billion to \$18 billion budget deficit entering the 2009–10 budget
25 year.
26 (6) In addition, the state may be required to spend as much as
27 \$3.5 billion during the 2008–09 fiscal year on prison health care.
28 (7) Freezing certain state salaries will help to alleviate the budget
29 shortfall currently facing the state.
30 (b) Except as provided in subdivision (c), a person employed
31 by the state whose base salary on the effective date of this section
32 is greater than one hundred fifty thousand dollars (\$150,000) per
33 year shall not receive any of the following:

1 (1) A salary increase while employed in the same position or
2 classification.

3 (2) Payment for overtime work.

4 (3) A bonus or other compensation in excess of the person's
5 base salary.

6 (c) Subdivision (b) shall not apply to any of the following:

7 (1) A person whose base salary or other compensation is
8 governed by an operative memorandum of understanding entered
9 into pursuant to Chapter 10.3 (commencing with Section 3512) or
10 Chapter 12 (commencing with Section 3560) of Division 4 of Title
11 1, or pursuant to another collective bargaining agreement.

12 (2) A person employed in a classification that is subject to
13 oversight by a receiver appointed by a federal court.

14 (3) A person employed in a classification that has been
15 designated by the Governor to be necessary for protecting the
16 safety and security of the people of California. The Governor shall
17 make such a designation only by an executive order that lists the
18 name of each individual to whom the order applies, his or her job
19 classification, and the reason for exempting the individual from
20 the requirements of subdivision (a).

21 (4) A person whose salary is set pursuant to the California
22 Constitution.

23 (d) For the purposes of this section, a "person employed by the
24 state" means a person employed by the executive, legislative, or
25 judicial branch of state government, an appointee to a state board
26 or commission, and a person employed by the California State
27 University system.

28 (e) The Controller may reject a request for a disbursement of
29 funds that violates this section.

30 (f) The Legislature urges the Regents of the University of
31 California and the Board of Directors of the Hastings College of
32 the Law to adopt the policy expressed in this section for individuals
33 employed by those entities.

34 (g) This section shall not be enforced to the extent it is
35 preempted by federal law.

36 (h) This section shall remain in effect only until January 1, 2012,
37 and as of that date is repealed, unless a later enacted statute that
38 is enacted before January 1, 2012, deletes or extends that date.

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